

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

RONALD and PATRICIA BASTA, as heirs at law to JOSEPH BASTA,

Appellants,

v.

KANSAS CITY POWER & LIGHT COMPANY and LARRY and JUDY BLANKENSHIP,

Respondents.

DOCKET NUMBER WD75929

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: October 8, 2013

APPEAL FROM

The Circuit Court of Buchanan County, Missouri
The Honorable Randall R. Jackson, Judge

JUDGES

Division Two: Newton, P.J., and Mitchell and Witt, JJ.

CONCURRING.

ATTORNEYS

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MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RONALD and PATRICIA BASTA, as)
heirs at law to JOSEPH BASTA,)
)
Appellants,)
v.)
)
KANSAS CITY POWER & LIGHT)
COMPANY and LARRY and JUDY)
BLANKENSHIP,)
)
Respondents.)

OPINION FILED:
October 8, 2013

WD75929

Buchanan County

Before Division Two Judges: Thomas H. Newton, Presiding Judge, and Karen King Mitchell and Gary D. Witt, Judges

Appellants, Ronald and Patricia Basta, appeal an order of the trial court taxing costs against them after they voluntarily dismissed their lawsuit against Respondents, Kansas City Power & Light Company (KCP&L) and Larry and Judy Blankenship. Appellants contend that, because they have re-filed their claim, the trial court in the dismissed action lacked jurisdiction to tax costs. They further claim that, even if the trial court in the dismissed action had jurisdiction, it erred in taxing deposition costs because the court reporters responsible for those depositions failed to comply with Rule 57.03 insofar as the required certificates were not timely filed.

APPEAL DISMISSED.

Division Two holds:

1. Section 512.020 allows for appeals from not only final judgments but also “any special order after final judgment in the cause.”
2. The phrase “any special order after final judgment in the cause” refers to the orders in special proceedings attacking or aiding the enforcement of the judgment after it has become final in the action in which it was rendered.

3. Although an after-judgment order on a motion for costs is an appealable special order within the meaning of § 512.020, it constitutes a “special order” under § 512.020(5) only if the judgment it follows is a *final* judgment. Where a post-judgment motion for costs follows a judgment that is not final for purposes of appeal, it does not constitute an appealable special order pursuant to § 512.020.
4. A voluntary dismissal without prejudice does not constitute a final judgment for purposes of appeal.
5. Because the Appellants’ voluntary dismissal was not a final judgment, the trial court’s order taxing costs did not constitute a “special order” within the meaning of § 512.020(5).
6. Absent statutory authority, no appeal is allowed. Thus, this appeal is dismissed.

Opinion by: Karen King Mitchell, Judge

October 8, 2013

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.